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10/034,002	12/26/2001	Michael D. Hall	13872RRUS02U	1840

7590 05/18/2005  
James A. Harrison  
P.O. Box 670007  
Dallas, TX 75367

EXAMINER

FOSTER, ROLAND G

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/034,002

Applicant(s)

HALL ET AL.

Examiner

Roland G. Foster

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 3-16 are rejected under 35 U.S.C. 102(e) as being anticipated U.S. Patent No. 5,852,775 ("Hidary"), of record.

With respect to claim 1, Hidary discloses central office switch, or mobile terminal switching office ("MTSO") 12 (information server), which inherently includes a processor that requires memory to store computer instructions for the processor to fetch and execute. The MSTO's processor executes computer instructions sufficient to prompt the information server to receive user identification ("ID") and cell location from the mobile telephone user by relying on a subscriber identifier 52 and subscriber locator (a.k.a. cell id) 54, which in an alternate embodiment are part of (and thus received from) the master station (col. 3, lines 7-17). The user ID corresponds to the number assignment module ("NAM") of the user's mobile phone (Fig. 1,

Art. Unit: 2645

memory bank 22 and col. 2, line 23-34) and thus can be considered a mobile terminal ID. This profile information is received when the subscriber 16 registers his presence (requests an open channel) (col. 2, lines 48-67). The profile information is used to search for related profile information stored in the subscriber profiles 58 of the external, ad server's memory bank 26 (Figs. 1 and 2) in order to determine what ad to push from ad message memory 60, 62, 64, and 66 to the subscriber's mobile terminal (Fig. 2 and col. 3, lines 4-17). A data bus would inherently be required between the MSTO's processor and memory in order for the processor to fetch instructions from, similar to the computer bus 56 illustrated between the ad server's processor and memory (Fig. 2).

The limitation "where the information server is operable to determine if the specific push data message it to be transmitted based upon at least one...or upon specified products and services identified in a user profile associated with the mobile terminal ID" reads on Hidary as follows. The information server (MSTO 12) determines if a specific advertisement (push data message) to be transmitted to the user based upon product and service data specified by the user, such as a desire to see a movie and the age of the user's car (col. 3, lines 39-50) and also convenient restaurants and gas stations (col. 4, lines 26-37).

Claim 11 differs substantively from claim 1 in that claim 11 recites a method performing steps equivalent the server components recited in claim 1. Therefore, see the claim 1 rejection for additional details. In addition, claim 11 recites that customer profile information is transmitted to an external server in order to receive the push data. As discussed in the claim 1

Art Unit: 2645

rejection above, Hidary discloses that customer profile data (mobile terminal ID and user's cellular location) are transmitted to ad server 24 in order to receive the push ads (if appropriate), which is illustrated as an external server (Fig. 1).

With respect to claim 3, see Fig. 1.

With respect to claims 4, 6, 12, and 15, the ad (push data) "may" be solicited by the user (col. 2, lines 63-67), thus also implying that the data may be unsolicited.

With respect to claims 5, 13, and 14, see col. 3, lines 38-50.

With respect to claim 7, see col. 3, lines 39-50.

With respect to claims 8 and 10, see the claim 11 rejection for further details. The ad server 24 can be considered as a vendor server because it carry the vendor's specific advertising.

With respect to claim 9, see col. 3, lines 18-24.

With respect to claim 16, the push ad data can be triggered by various events disclosed in Hidary, such as simply placing a call (discussed above).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidary as applied to claim 11 above, and further in view of U.S. Patent Application Publication No. 5,950,125 ("Buhrmann"), of record.

With respect to claim 19, Hidary fails to disclose that the cell phones are part of picocells and thus fails to disclose identifying the identity of the picocell.

However, Buhrmann (similarly to Hidary) teaches of a MTSO, cell phone network where all cells, including picocells, are identified (abstract) in a user zone (col. 8, lines 15-26).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add identifying all cells (including picocells) as taught by the MTSO, cell phone network of Buhrmann to the MTSO, cell phone network disclosed by Hidary.

The suggestion/motivation for doing so would have been to improve the consistency of telephone service by providing similar services within a user zone of different cells, which

Art Unit: 2645

includes picocells (Buhrmann, col. 1, line 10 – col. 2, line 10). In addition, the use of picocells are prevalent in dense urban environments, thereby greatly increasing network reach of the user zones. Finally, identifying the different cells in the user zone would have been to increase operational efficiency and flexibility by adding the ability to select one cell when the user is in a zone of overlapping cells (col. 8, lines 15-26).

With respect to claim 20, the push (ad) data is broadcast over the wireless network.

Claims 2 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidary as applied to claims 1 and 11, 15, and 16 above.

Hidary fails to disclose that the cell network uses the GPRS or UTMS protocols or that the detected events include travel conditions.

However, "Official Notice" was taken in the last Office action that both the concept and advantages of cell phone networks using GPRS or UTMS and detected events including travel conditions based on user location would have been well known and expected in the art of cell networks. The applicant's lack of traverse to the officially noticed fact in the last Office action is taken as an admission of the facts noticed.

Art Unit: 2645

Therefore, it would have been obvious to use the GPRS or UTMS standard and detected events including travel conditions based on user location in the cell phone network that pushes data based on user location as disclosed by Hidary.

The suggestion/motivation for doing so would have been to conform to industry standards such as GPRS or UTMS when pushing data over a cellular network and the advantages attendant to these standards and to save the user time and cost when traveling by providing the user with traffic data via his cell phone based on current location, as is notoriously well known in the art.

***Allowable Subject Matter***

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Examiner's Reason for Indicating Allowable Subject Matter***

See pages 6 and 7 of the last Office action, mailed on September 09, 2004, for further reasons regarding the examiner's reasons for indicating allowable subject matter.



***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

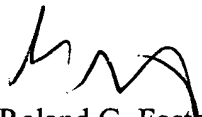
Art Unit: 2645

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland G. Foster whose telephone number is (571) 272-7538.

The examiner can normally be reached on Mon to Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roland G. Foster  
Primary Patent Examiner  
May 11, 2005